

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
Case No. 5:24-cv-00290-FL

FSC II, LLC DBA FRED SMITH COMPANY,
Plaintiff,

v.

DRAGADOS USA, INC.; and LIBERTY
MUTUAL INSURANCE COMPANY; FIDELITY
AND DEPOSIT COMPANY OF MARYLAND;
ZURICH AMERICAN INSURANCE COMPANY;
THE CONTINENTAL INSURANCE
COMPANY; and XL SPECIALTY INSURANCE
COMPANY,

Defendants.

**Order on Consent
Motion to Remand**

This matter is before the Court on the Consent Motion to Remand filed by defendant Dragados USA, Inc. (“Dragados”).

The parties represent that following Dragados’s removal of the case, Dragados’s counsel learned from opposing counsel that plaintiff FSC II, LLC dba Fred Smith Company’s (“Smith’s”) sole member is Construction Partners (of Delaware), Inc., a Delaware corporation. Defendant Dragados and another defendant are also Delaware corporations. This defeats diversity of citizenship, the sole basis Dragados has asserted for this Court’s removal jurisdiction. Accordingly, Dragados moves—with Smith’s consent—to remand the case to North Carolina’s General Court of Justice, Superior Court Division, Wake County.

Having reviewed the representations of the parties, the Court concludes that it lacks subject matter jurisdiction over this dispute, so the case must be remanded. *See* 28 U.S.C. § 1447(c).

IT IS THEREFORE ORDERED that this matter be remanded to North Carolina's General Court of Justice, Superior Court Division, Wake County. A certified copy of the order of remand shall be mailed by the clerk to the Wake County Clerk of Superior Court, and that court may thereupon proceed with such case.

SO ORDERED, this the 31st day of May, 2024.



LOUISE W. FLANAGAN
United States District Judge